

**STATE OF CALIFORNIA**  
**Department of Housing and**  
**Community Development**



**Housing Element Questions and Answers**  
**A Guide to the Preparation of Housing Elements**

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**June 2001**

# HOUSING ELEMENT QUESTIONS AND ANSWERS

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## **PUBLIC PARTICIPATION** **Government Code Section 65583(c)(6)(B)**

**Q1:**

*Why is public participation critical to updates?*

**A:**

Housing issues affect the entire community -- residents and employers, the public and private sectors. The public participation requirement of housing element law presents an opportunity to engage constituents in a dialogue – defining problems and creating solutions.

Public participation involves soliciting input from all citizens. The inclusion of community stakeholders in the housing element public participation process helps ensure appropriate housing strategies are more efficiently and effectively developed, implemented, and evaluated. An inadequate public participation process may lead to community conflict or in worse case scenarios, anti-development initiatives, and NIMBYism.

**Q2:**

*Who should be included in the public participation process?*

**A:**

Current and potential beneficiaries of housing programs and services and their advocates (lower-income representatives, tenants of affordable complexes – especially those at-risk of conversion, groups targeted for special housing needs consideration, community based organizations, health and human service providers, homeless shelter and service providers, etc.) are invaluable sources of housing element information and data. These groups and their representatives are a good source of information for the required needs analyses, especially when revisions are required in between census updates. For example, senior citizen organizations can usually describe the availability of services for seniors. Legal Services organizations may be able to describe anecdotal information on the number of complaints about fair housing issues, substandard housing conditions, and other housing related problems.

Various community stakeholders including neighborhood leaders, local businesses, major employers, and environmentalists can be mobilized through the housing element participation process to collaborate on housing issues. Developing a variety of housing types for all income groups appropriate to each unique community is a major community-wide undertaking. Responsible public participation can serve to build consensus among constituents for the design and implementation of realistic housing programs. Committed public participants can support an adopted housing element and deflect opposition to future housing projects.

Development professionals including local builders, for- and non-profit developers, architects, trade labor unions, realtors, mortgage bankers and brokers, area lenders, and others can also be significant contributors to the development of an effective housing element. They can provide base-line data (e.g., land and construction costs, current for-sale housing prices and rents, area mortgage lending and availability) and describe practical experience regarding development opportunities and barriers in the community.

## Q3:

*What actions can a local government undertake to achieve effective public participation of all economic segments of the community?*

## A:

An effective public participation process should begin at the outset of the housing element update process. Members of the community should be involved in evaluating the accomplishments of the previous element, identifying current needs, resources and constraints, as well as assisting in the development of community goals, policies and actions. Most communities engage residents in the process prior to preparing the draft element.

In addition to holding required public hearings at the planning commission and city council or board of supervisor level, an adequate and effective citizen participation process must include additional steps to ensure the public participation of all economic segments of the community (including low- and moderate-income households). Many local governments have found the following actions useful in facilitating an effective participation process:

- \* Establish an ongoing public participation process. This may involve establishing an ad-hoc, appointed, or volunteer task force and/or citizen advisory committee to oversee the status of housing plans and programs. Some jurisdictions conduct open annual housing study sessions and/or hold periodic neighborhood based meetings to increase participation. Alternatives to traditional public meetings/hearings include more “hands-on” approaches like sponsoring “open houses” and/or conducting tours of successful affordable housing projects.
- \* Conduct special advertising and outreach campaigns to targeted church groups, low-income organizations, seniors, and community and service groups. Post notices regarding public meetings about the housing element at community centers, libraries, city hall, social service offices, on buses, and throughout the community in public places. Information can also be included in local utility bills or other publications.

# PUBLIC PARTICIPATION

- \* Based on the diversity of the community, consider distributing public participation and housing element information in languages other than English.
- \* Updated housing information and data, as well as meeting and planning schedules, can also be posted on government websites. Interactive information technology can speed up input gathering and broaden the base of participation for citizens who have access to the Internet (computers are now available at most public libraries).

Local governments that prepare a Consolidated Plan in order to directly receive federal housing and community development funds are also required to conduct a thorough citizen participation process. Local redevelopment agencies are required to hold public hearings on implementation and affordable housing production plans (Health and Safety Code Section 33413(b)(4)).

Many communities combine housing element, redevelopment, and Consolidated Plan, including the Impediments to Fair Housing, and Public Housing Agency Plans' public participation processes. Since the requirements are similar and planning consistency facilitates implementation (and in many cases is required), the jurisdiction should consider coordinating the drafting, public participation process and implementation of these and other related plans. Coordination in the development of all of these plans helps local governments avoid duplication of effort and ensures consistency in planning.

**Q4:**

*How can the update process enhance community and regional planning efforts?*

**A:**

The housing element process can be used to implement sound housing and community development planning. Creating sustainable and livable communities that enhance the quality of life is an important goal. The update process can serve as a vehicle for advocating "smart growth" housing strategies. Promoting more compact development, recycling, mixed use and infill, pedestrian-friendly, and transit-oriented developments allow communities to take advantage of existing infrastructure, revitalize older neighborhoods and downtowns, improve air quality, reduce traffic congestion, and curb urban sprawl. Incorporating these concepts into the housing element update helps ensure their effective implementation.

The update process can also create a strong base of support for local officials when issues or controversies arise during implementation of the housing element. Community residents and stakeholders who have contributed to the element's development are more likely to attend public hearings and meetings and support local officials in their implementation efforts.

# PUBLIC PARTICIPATION



## *State Department of Housing and Community Development*

The housing element update process can function as an informational and public relations tool to better educate the community on who really needs affordable housing (e.g., service workers, teachers, fire fighters, first-time homebuyers, those at risk of homelessness, etc.) and how an adequate supply of safe and affordable housing and the development of a variety of housing types provides significant economic and social benefits to the entire community. Planning for an adequate supply of housing to keep pace with both population and job growth is integral to the overall economic vitality of a community and critical to the quality of life of all residents.



# REVIEW AND REVISE

## **REVIEW & REVISE**

### **Government Code Section 65588**

#### ***Q5:***

*Why is the periodic review important?*

#### ***A:***

The review and evaluation of the previous housing element is the critical first step in an effective housing element update process. A thorough review and revision of the previous element facilitates a more comprehensive update and ensures the element can be more effectively and efficiently implemented in the current planning period.

The “review and revise” evaluation is a three-step process:

- \* **Section 65588(a)(2): “Effectiveness of the element”** - Review the results of the previous element’s goals, objectives, policies, and programs. The results should be quantified where possible (e.g., the number of units rehabilitated), but may be qualitative where necessary (e.g., mitigation of governmental constraints).
- \* **Section 65588(a)(3): “Progress in implementation”** - Compare what was projected or planned in the previous element to what was actually achieved. Analyze the significant differences between them. Determine where the previous housing element met, exceeded, or fell short of what was anticipated.
- \* **Section 65588(a)(1): “Appropriateness of goals, objectives and policies”** - Based on the above analysis, describe how the goals, objectives, policies and programs in the updated element are being changed or adjusted to incorporate what has been learned from the results of the previous element.

Many communities cross reference and use the annual progress report (Government Code Section 65400(b)(1)) as a useful source of information for review of the previous housing element (see Q59 on page 50).

#### ***Q6:***

*How often should it be revised or updated?*

#### ***A:***

The statute requires at least five-year updates in accordance with the statutory schedule. Periodic review of the housing element is also necessary in order to determine whether a revision is required prior to the five-year update cycle. If the locality determines that one or more of the following conditions exist, it may be appropriate to revise the housing element between statutory updates.

# **R E V I E W A N D R E V I S E**

- \* New policies, regulations, or requirements are proposed for adoption that may inhibit the communities' ability to comply with housing element law or effectively implement housing programs (e.g., growth control ordinances or measures).
- \* The stated housing goals, objectives and policies are not effective in providing housing for the existing and projected needs of all economic segments of the community.
- \* Housing units are not being produced in adequate numbers and at the necessary price levels to achieve the stated housing goals and quantified objectives.
- \* A comprehensive general plan update is underway or other portions of the general plan have been amended, making it necessary to revise the housing element to achieve internal consistency pursuant to Government Code Section 65583(c)(6)(B).
- \* Significant new development not contemplated at the time of the regular revision of the element has occurred or is planned.

## **EXISTING HOUSING NEEDS**

**Government Code Section 65583(a)(1)-(2)**

***Q7:***

***What constitutes an adequate analysis of existing housing needs?***

***A:***

Existing housing needs include current basic information such as total households by household income, vacancies, and lower-income households overpaying for housing. A thorough community profile typically includes, the following quantification and qualitative data and descriptive household information:

- \* Total Population and demographics (e.g., age, sex, race/ethnicity, etc.) - Many jurisdictions also discuss population changes overtime.
- \* Total number of households in the community - The Department of Finance (DOF) prepares annual population estimates including population, households and dwelling units. The E-5 report is available yearly in May. See website [www.dof.ca.gov](http://www.dof.ca.gov).
- \* Tenure characteristics - The number of renter and owner households in the community.

In addition, the statute specifically requires the housing element to include an assessment of households overpaying:

- \* Compare level of payment with ability to pay - In comparing level of payment with ability to pay, the number of lower-income households (those at or below 80 percent of the median income) who are overpaying for housing should be quantified.

Overpaying is defined in terms of a percentage of the gross household income a household spends for housing including utilities. Overpaying for housing is also known as the housing cost burden. Thirty percent of gross household income is the standard affordability level. Severe overpaying occurs when households pay 50 percent or more of their gross income for housing. The element should estimate the number of lower-income households paying more than 30 percent of their income for housing and the number of households who pay 50 percent or more of their gross income for housing. This information is available by tenure (owner/renter).

**Q8:**

*What housing characteristics should be documented and analyzed?*

**A:**

- \* Total number of housing units - Where possible, the element should describe the distribution of units by type (single-family, multifamily, mobilehomes), as well as any changes in that distribution since the last housing element update.
- \* The condition of the housing stock including the total number of substandard units (e.g., those in need of rehabilitation [repair] and those in need of replacement [demolition]) - The number of units to be rehabilitated and/or replaced may be estimated from a recent (within the last five years) windshield survey or sampling, estimates from the local building department, knowledgeable builders/developers in the community, nonprofit housing developers or organizations and redevelopment agencies. Estimates can also be derived from census data such as percentage of units built before 1960, which can serve as an estimate of the maximum rehabilitation need.
- \* The incidence of overcrowding - The Census defines an overcrowded unit as one occupied by 1.01 persons or more per room (excluding bathrooms and kitchens). Units with more than 1.5 persons per room are considered severely overcrowded. Localities are to estimate the number of households that live in overcrowded and severely overcrowded units. The incidence of overcrowding frequently parallels the incidence of large households.

Many communities also analyze other household and housing characteristics:

- \* Median area sales prices and typical rents including area Fair Market Rents (FMRs);
- \* Vacancy rates for homes and rentals; and
- \* Fair housing/fair lending complaints filed with local, State and federal fair housing organizations and departments.

***Sources of information and data related to existing housing needs are included in the Appendix.***

## **SPECIAL HOUSING NEEDS**

**Government Code Section 65583(a)(6)**

**Q9:**

*How do special housing needs differ from other housing needs and why is an analysis of special housing needs important?*

**A:**

Special needs are those associated with relatively unusual occupation or demographic groups which call for very specific program responses, such as preservation of residential hotels or the development of four bedroom apartments. The statute specifically requires analysis of the special housing needs of the elderly, the disabled, female headed households, large families, farmworkers and homeless persons and families.

A thorough analysis of the special needs groups helps a locality identify groups with the most serious housing needs in order to develop and prioritize responsive programs. A special needs assessment starts with general knowledge of the community's demographics. The housing element should analyze the needs of each group specifically mentioned in statute as well as any other group the locality deems appropriate. The analysis should include a discussion of the nature of the special housing need of each group as well as quantification of the need.

**Q10:**

*What information should be included in an analysis of special housing needs and where can a locality find information about special housing needs?*

**A:**

A thorough analysis would include the following:

- \* A quantification of the total number of persons, households (e.g., 600 elderly households).
- \* A quantification and qualitative description of the need. For instance, in the example listed above, of the 600 elderly households, census data reveals that 400 are homeowners and 200 are renters and that 250 of all elderly households have incomes below the poverty level. A qualitative description of the need would include a description of the potential housing problems faced by the group. For example, the analysis of elderly need might show that an estimated 30 percent of elderly households below the poverty level live in substandard housing, indicating a housing rehabilitation need. Most local governments consult information available from service providers, housing or service waiting lists, and data on income and housing costs to identify special housing needs.
- \* Identification of potential program or policy options and adequate resources to address the need.

**Sources of information and data on special needs populations are included in the Appendix.**

# HOUSING NEEDS ASSESSMENT

## Q11:

*What information should be included in the analysis of homeless need to facilitate the identification of adequate site for emergency shelters and transitional housing?*

## A:

A thorough analysis would include:

- \* An estimate or count of the daily average number of persons lacking permanent shelter. Wherever possible, this figure should be divided into single males and females, and families (one or more adults with children). These subgroups require significantly different types of shelter.
- \* As local data allows, also include the mentally ill, developmentally disabled, substance abusers, survivors of domestic violence, and other categories of homeless considered significant by the jurisdiction.
- \* An inventory of the number, approximate location, and type of existing shelter beds, hotel/motel vouchers, and units of transitional housing available. Present shelter resources by type (e.g., family shelter beds, homeless adult female housing, transitional living units, etc.).
- \* An estimate, derived from the figures above, of the number of additional beds or shelters and transitional housing units needed.

## Q12:

*What information should be included in the analysis of farmworkers to facilitate the identification of adequate sites for farmworker housing?*

## A:

The element should estimate the number of permanent and migrant farmworkers within the community. The analysis should describe the zones where housing for farmworkers is allowed, evaluate whether sufficient opportunities for housing for migrant and permanent farmworkers exists, and describe any conditions on development.

The statute specifically encourages cities and counties to work cooperatively to identify and address farmworker housing needs.

If adequate sites for farmworker housing have not been identified, the element must include a program that provides farmworker housing uses by right (see Q45 in Section VI, page 35). This requirement was added as Chapter 967, Statutes of 1999.

## **AT-RISK ASSISTED HOUSING DEVELOPMENTS NEEDS ASSESSMENT** **Government Code Section 65583(a)(8)(A-D)**

**Q13:**

*What assisted housing must be inventoried?*

**A:**

Assisted housing developments are multifamily rental housing complexes that receive government assistance under any of the following federal, state, and/or local programs (or any combination of rental assistance, mortgage insurance, interest reductions, and/or direct loan programs) which are eligible to change to market-rate housing due to termination (opt-out) of a rent subsidy contract (e.g., Section 8), mortgage prepayment (e.g., FHA), or other expiring use restrictions (e.g., State or local programs) within the 5-year planning period of the housing element and the subsequent 5-year period.

- \* **Federal programs listed in subdivision (a) of Government Section 65863.10**  
**HUD Section 8** - U.S. Housing Act of 1937  
Lower-income Rental Assistance project-based programs:  
 (1) New construction, (2) Substantial or Moderate Rehabilitation, (3) Property Disposition, (4) Loan Management Set Aside (LMSA),  
 Section 101 Rent Supplements – U.S. Housing Act of 1965  
**HUD Section 221(d)(3) BMIR** Mortgage Insurance  
**HUD Section 236** Interest Reduction Payment Program  
**HUD Section 202** Direct Loans for Elderly or Handicapped – U.S. Housing Act of 1959 and HUD Section 811  
**HUD Section 213** Cooperative Housing Insurance  
**IRS Section 42** (Tax Credit Projects)  
**HUD Title II (ELIHPA)**  
**HUD Title VI (LIHPRHA)**
- \* **Rural Housing Services (formerly Farmer's Home Administration) 515 Rural Rental Housing Loans** – U.S. Housing Act of 1949
- \* **Federal Community Development Block Grant Programs**
- \* **State (e.g., HCD, CDLAC, TCAC and CHFA) and local mortgage revenue bond programs**
- \* **Local redevelopment agency units assisted with Redevelopment Low- and Moderate-Income Fund**
- \* **Local in-lieu fees and inclusionary housing programs**
- \* **Local density bonus and directly assisted units**



## **Q14:**

*What constitutes an adequate analysis of government assisted at-risk units?*

## **A:**

- A. Prepare an inventory of all units at-risk of conversion within the current planning period and subsequent 5-year period (e.g., 2000 – 2010).**

If there are no units at-risk in the locality during the ten-year period, complete the checklist in the Appendix. As part of the analysis, describe how the locality determined and verified no units are at-risk of conversion during the planning period and subsequent ten years.

List each development by project name and address, type of governmental assistance received, earliest possible date of change from low-income use, and the total number of elderly and non-elderly units that could be lost from the locality's low-income housing stock. Where a property has more than one subsidy type, analyze each type separately.

Contact HCD's Division of Housing Policy Development to confirm federally-assisted units with expiring/terminating Section 8 contracts or mortgage or mortgage insurance prepayments at (916) 445-4728 or access HCD's website [www.hcd.ca.gov/hpd/hrc/tech/presrv/](http://www.hcd.ca.gov/hpd/hrc/tech/presrv/). To determine the status of HCD's funded programs (Deferred Payment Rehabilitation Loan, California Natural Disaster Assistance, California Housing Rehabilitation Program Rental Component, Farmworker Housing Grant, and Special User Housing Rehabilitation Loan) projects with expiring affordability controls, contact HCD's Division of Community Affairs at (916) 322-1560.

Contact the California Housing Finance Agency (CHFA) to inquire about bond-financed projects with terminating use restrictions at [www.chfa.ca.gov](http://www.chfa.ca.gov)

Contact Rural Housing Services to confirm the status of Section 515 rural housing with expiring use restrictions at website <http://www.rurdev.usda.gov>

The first projects developed using the State Low Income Tax Credits with expiring use restrictions within the ten-year timeframe should also be inventoried.

Contact the California Tax Credit Allocation Committee (TCAC) through the State Treasurer's Office at [www.treasurer.ca.gov](http://www.treasurer.ca.gov) to confirm tax credit units at-risk.

Contact the California Debt Limit Allocation Committee (CDLAC) also through the State Treasurer's Office to confirm revenue bond-financed at-risk units.



**B. Assess the conversion risk**

Risk of conversion and displacement of low-income tenants varies significantly from project to project depending on market, ownership, and project-based factors (size of units, location, condition of property, etc.).

Assess overall potential conversion risk based on the total number and type of units at-risk, total number of potentially displaced households, and the economic condition of the local housing market, especially in areas with high housing costs and/or low vacancy rates.

Determine the condition of existing assisted housing developments to facilitate the replacement versus preservation cost analysis. Depending on the age and condition of the project, rehabilitation costs often have to be added to the acquisition costs in order to preserve the project.

**C. Estimate and analyze the costs of replacement versus preservation for units at-risk in the current five-year planning period.**

This analysis determines whether replacement (new construction), or preservation (acquisition and rehabilitation, and/or direct rental subsidy commitments) will be the most economical approach to preserving at-risk units. Current local market rents are key to determining whether use restrictions and affordability controls can be feasibly extended under HUD's Mark-to-Market (where subsidized units have contract rents above market) or Mark-Up-To-Market (where subsidized units have contract rents below market) or other State (tax credit, revenue bonds, HCD's multifamily program, etc.) or local preservation programs.

Estimate the costs of producing new rental housing (comparable in size and rent levels to existing at-risk units) to replace the units that could change from low-income use. Use current land costs and either current construction costs (square footage rates for multifamily development) or the actual cost of recently completed units.

Estimate the cost of preserving the identified assisted housing developments including acquisition and rehabilitation costs long-term affordability controls and project based rent subsidies.

A project-by-project cost estimate is not required (Section 65583(a)(8)(B)).

**D. Identify entities qualified to preserve at-risk units**

Identify local public agencies, public or private nonprofit corporations, and for-profit organizations with the legal and managerial capacity to acquire and manage at-risk projects (Section 65583(a)(8)(C)). New purchasers must agree to long-term affordability controls.

Contact potential qualified entities to assess their interest in acquiring and managing at-risk properties. Contact HCD for a list of eligible entities interested in participating in the State's Opportunity to Purchase and Right-of-First-Refusal Program pursuant to Government Code Section 658363.11 as amended January 1, 2001 or to refer potential local qualified entities who wish to be placed on the list. A copy of the qualified entities list and the certification form are available on the website.

**E. Identify financing and subsidy resources**

Identify and consider the use of all federal, State, and local financing and subsidy programs as preservation resources. At minimum include federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency, and the administrative fees received by a housing authority operating within the community as well as other available local financing/subsidy programs. Also include HOME funds as a potential source of revenue.

Identify the amount of funds under each program, which have not been legally obligated for other purposes and could be available for use in preserving assisted housing development (Section 65583(a)(8)(D)).

Indicate which of all available federal, State, and local financing and subsidy programs, will be targeted for specific preservation program actions (e.g., replacement, preservation through acquisition, extended affordability controls, regulatory actions, direct rental subsidies, rehabilitation, tenant and sponsor technical assistance, etc.).

***A No At-Risk Units Certification Checklist is included in the Appendix.***

## **PROJECTED HOUSING NEEDS**

### **Government Code Section 65583(a)(1)**

Housing element law requires a quantification of each jurisdiction's existing and projected housing needs. This is accomplished through the regional housing need allocation (RHNA) process pursuant to Government Code Section 65584. The city or county's share of the RHNA, as determined by their Council of Governments (COG) and HCD, is the projected housing need for the planning period of the housing element. Each city's RHNA is distributed among four income categories to address the required provision for planning for all income levels, consistent with the income definitions of State law. To accommodate the RHNA, the element must demonstrate site development capacity equivalent to, or exceeding, the projected housing need, to facilitate development of a variety of types of housing for all income levels.

### ***Q15:***

*What should be included in the population and employment trend analysis?*

### ***A:***

A complete description of the locality's most recent population estimate and general characteristics of the employment market is important in portraying the local housing market influences and the demand for housing. This information provides insight into the types of jobs and industries in the community and by inference the incomes associated with employment opportunities; proposed new economic development activities, and future housing needs generated by any new employment opportunities.

The Regional Housing Needs Allocation (RHNA) usually incorporates both population and employment trends, but may not have taken into account recent local factors such as annexations, adoption of a redevelopment plan, or opening of a new business park. In these situations, the locality should analyze the impact of these recent trends on its total projected housing need to determine if, and how, the locality should plan for additional growth through changes to its housing objectives and/or programs.

### ***Q16:***

*What household income categories are included in a locality's RHNA?*

### ***A:***

The four income category definitions used in the RHNA distribution are those defined in Title 25, Sections 6926, 6928, 6930, and 6932, of the California Code of Regulations. These income categories are based on definitions established by the U.S. Department of Housing and Urban Development (HUD) and State Health and Safety Code Sections 50079.5, 50105, and 50093.

# HOUSING NEEDS ASSESSMENT



## *State Department of Housing and Community Development*

- \* **Very low income** – within 50 percent of the area median family income with adjustments for usually high or low area income and household size.
- \* **Low or Lower income** – between the very low-income limit and 80 percent of the area median family income with adjustments for usually high or low area income or housing costs and for household size.
- \* **Moderate income** – between the lower income limit and 120 percent of the area median family income with adjustments for usually high or low area income or housing costs and for household size.
- \* **Above moderate income** – exceeding the moderate-income limit adjusted for household size.

These income groups are consistent with the definitions of low- and moderate-income households used in many federal and state programs, although definitions for some federal programs differ. More information on the current income limits is available on HCD's website at [hcd.ca.gov/hpd/hrc/rep/state/incNote.html](http://hcd.ca.gov/hpd/hrc/rep/state/incNote.html).

## **RESOURCES: LAND INVENTORY**

Government Code Section 65583(a)(3)

**Q17:**

*What is the purpose of the land inventory?*

**A:**

The purpose of the land inventory is to identify specific sites suitable for residential development in order to compare the locality's new construction need by affordability category with its residential development (total supply) capacity. A thorough land inventory will help the locality determine if additional governmental actions are needed to provide enough sites with appropriate zoning, development standards, and infrastructure capacity to accommodate its new construction need as required by Section 65583(c)(1)).

**Q18:**

*What land is considered "suitable" for residential development?*

**A:**

Land "suitable for residential development" has characteristics that make the sites appropriate for housing construction. These characteristics include physical features (freedom from flooding, seismic hazards, chemical contamination, other environmental constraints, and slope instability or erosion) and location (proximity to transit, job centers, and public and community services).

Sites not currently planned and zoned for residential use may be included in the inventory if they are otherwise suitable for residential development and the element includes program actions to change the land use within the current planning period.

**Q19:**

*What constitutes on "analysis of the relationship of zoning" to these sites?*

**A:**

The analysis of the relationship of suitable sites to zoning provides a means for determining the realistic number of dwelling units that could actually be constructed on those sites within the current planning period of the housing element. The analysis should also identify the zones the locality believes can accommodate its share of the regional housing need for all income levels, including the needs of low- and moderate-income households. The analysis should reflect:

- \* Comparison of general plan land-use designations to zoning.
- \* An evaluation of permitted densities for accommodating the localities share of the regional housing need for lower- and moderate-income households.
- \* Actual densities of recent residential developments compared to their zoned densities.

The housing element land inventory and analysis will allow the locality to determine whether current zoning and densities make sufficient residential land available to accommodate the new construction need in total and by income level. If the inventory is deficient in either respect, the locality should determine what specific actions, such as modification of zoning, will be necessary to increase the availability of sites at appropriate densities (Section 65583(c)(1)).

## Q20:

*What information should be included in the land inventory for a community with very little vacant land?*

## A:

In communities with limited vacant land, the inventory should identify and analyze sites available for redevelopment/recycling to residential or a more intense use, infill, and/or non-residential sites that may be appropriate to redesignate for residential use. Examples of land with potential for recycling may include scattered sites suitable for assembly, publicly-owned surplus land, portions of blighted areas with abandoned or vacant buildings, areas with mixed-used potential, substandard or irregular lots which could be consolidated, and any other suitable underutilized land.

The land inventory should describe the acreage and current zoning of such sites, recent or historical development trends, current or proposed development standards, realistic development capacity within the planning period of the element, and any incentives or policies to facilitate their development, redevelopment or reuse.

## Q21:

*What constitutes an “analysis of the relationship of public facilities and services to these sites”?*

## A:

The analysis is a means of determining the current or proposed timing of availability of essential public facilities and services (e.g., sewer and water system trunklines and treatment facilities, roads, and storm drainage facilities) for sites identified for residential development. Existing capacity and capacity that will be provided during the current planning period of the element should be described and analyzed.

Any phasing plans of a relevant specific plan, development agreement or Capital Facilities Financing Plan should be described. Through a complete infrastructure capacity analysis, the locality will be able to identify where facilities and services are lacking in order to establish program actions (capital improvement plans, financing through general obligation or special district bonds, etc.), that will permit the development of sufficient units to meet the new construction objectives within the planning period.



The analysis of infrastructure capacity also allows local governments to evaluate and plan strategies to use existing infrastructure more efficiently and effectively. Combining the analysis of adequate sites with infrastructure capacity encourages comprehensive planning to identify opportunities to encourage development where public facilities already exist or could be extended to reduce the need to expand infrastructure outside currently served areas. Adequate sites strategies that focus on infill and redevelopment promote the efficient use of existing infrastructure and minimize the premature conversion of nonurbanized land for development.

## Q22:

*What time frame should be used in identifying land suitable for residential use?*

## A:

The housing element should identify sites that are or will be made available for residential use within the planning period of the element. Sites identified that require rezoning may be included as an adequate site as long as a program for accomplishing any need rezoning is included in the element.

## Q23:

*How does a locality determine if its current sites are adequate?*

## A:

The locality's sites are adequate if the land inventory (Section 65583(a)(3)) demonstrates sufficient realistic capacity at appropriate densities and development standards to permit development of a range of housing types and prices to accommodate the community's share of the regional housing need by income level.

A two-part analysis is necessary to make this determination:

- \* Can the realistic development capacity of suitable land, which is or will be served by facilities and infrastructure, accommodate the locality's total new construction need by income group over the next five years? (Total Supply)
- \* Are these available sites appropriately zoned (considering local development standards and land costs) for a variety of housing types (single-family, multifamily, mobilehomes, etc.) and at appropriate densities to facilitate the development of housing to meet the locality's regional housing need by income level category, including the need for very low- and low-income households?

If the amount or variety of a jurisdiction's residential development capacity is less than its new construction need for any income level, a shortfall exists. In such a case, the housing element must include a program to increase residential development capacity or increase the capacity to accommodate the regional share by income level.

Many jurisdictions find it useful to contact area developers to request input on the minimum densities necessary and the feasibility of the development of particular sites.

## Q24:

*Does the land use element of the general plan contain the necessary information to complete the land inventory?*

## A:

The land-use element contains some, but not all, information necessary for the housing element land inventory. The land-use element usually identifies the proposed general distribution and location of land-use over a ten- to twenty-year general plan time frame. Often times the land-use element contains parcels that are within the jurisdictions' planning area (sphere of influence) but will not be within the locality's boundaries during the planning period. The housing element land inventory provides a current and comprehensive analysis of sites suitable for residential development over the housing element's shorter five-year time frame.

## Q25:

*What level of environmental review is required to assure sites are available for residential development?*

## A:

If it is anticipated that land uses will change and land will be rezoned within the current planning period in order to provide suitable sites for residential development, a mitigated negative declaration, if not a full Environmental Impact Report (EIR), may be required in the environmental review of the housing element.

A comprehensive environmental review of the housing element may preclude the need for later environmental review on specific plans or individual affordable housing projects. For example, portions of the land-use inventory may be covered by a specific plan with an EIR which would exempt further environmental preview pursuant to [Government Code Section 65457](#).



## **GOVERNMENTAL CONSTRAINTS**

**Government Code Section 65583(a)(4)**

**Q26:**

*What is considered a governmental constraint?*

**A:**

Although local ordinances and policies are enacted to protect the health and safety of citizens and further the general welfare, it is useful to periodically reexamine local ordinances/policies to determine whether, under current conditions, they are accomplishing their intended purpose or in practice constitute a barrier to the maintenance, improvement or development of housing for all income levels.

Such an examination may reveal that in practice the ordinance/policy may require performance standards and/or restrictions that operate as a governmental constraint. The analysis may also show that certain policies have a disproportionate or negative impact on the development of particular housing types (e.g., multifamily) or on housing developed for low- or moderate-income households.

Ordinances, policies or practices which have the effect of excluding housing affordable to low- and moderate-income households may also violate State and federal anti-discrimination laws which prohibit land-use requirements that discriminate or have the effect of discriminating against affordable housing.

The analysis should describe past or current efforts to remove governmental constraints. Where the analyses identifies that constraints exist, the element should include program responses to mitigate the effects of the constraint.

**Q27:**

*What should be analyzed as potential governmental constraints?*

**A:**

The element should analyze each of the following policies as described in the statute, and others as deemed appropriate by the locality. Each analysis should use specific objective data, quantified where possible. A determination should be made for each potential constraint as to whether it poses as an actual constraint.

- \* **Land Use Controls:** Zoning (e.g., density, parking requirements, lot coverage, lot sizes, unit sizes, design criteria, floor area ratios, setbacks), moratoria and prohibitions against multifamily housing developments, growth controls, urban growth boundaries, open space requirements, etc.

- \* **Codes and Enforcement:** Any local amendments to the State Housing Law or Uniform Building Code, the degree or type of enforcement. A strict code enforcement program or a code amendment, which specifies expensive materials and/or methods, can pose a significant constraint to housing development or maintenance.
- \* **On- and off-site improvement requirements:** Street widths, curb, gutter, and sidewalk requirements, water and sewer connections, and circulation improvement requirements. Describe any generally applicable level of service standards or mitigation thresholds.
- \* **Fees and exactions:** Permit, development and impact fees (e.g., park, school, open space, parking district, etc.), in-lieu fees, land dedication requirements (e.g., streets, public utility and other right-of-ways, easements, parks, open space, etc.) and other exactions imposed on developers. Describe any contribution or payment required as an authorized precondition for receiving any type of development permit.
- \* **Processing and permit procedures:** Types of permits, typical permit processing times, and standard approval procedures. Describe the types of permits, discretionary approval procedures, and processing time required for recent and current residential projects, including all permits applicable to residential development including overlay zones (e.g., Community Plan Implementation Zones, Hillside Overlay Zones, Environmentally Sensitive Areas, etc.). Other applicable regulations such as landscaping, design, planned districts, etc. should also be included. As part of this analysis, localities should compare the permit and approvals process for a typical single-family subdivision and a typical multifamily project.

**Q28:**

*How should an adopted growth control measure be evaluated as a governmental constraint?*

**A:**

Ordinances, policies, procedures, or measures imposed by the local government that specifically limit the amount or timing of residential development should be analyzed as potential governmental constraints and mitigated, where necessary. The analysis will vary depending on the nature of the measure. In general, the measure and its implementation procedures should specifically be described and analyzed for their impact on the cost and supply of housing.

For ordinances which control the number and timing of permits, the element should describe any permit allocation process, allocation timing, specific limits on the number of permits issued

per project type, and any affordable housing incentives in the allocation process. The method of determining the number of permits to be issued annually and the basis for this determination should also be included.

The analysis should demonstrate how the policy or ordinance accommodates the locality's current regional housing need allocation for all income groups. If not, the element must include a program to mitigate the impacts of the ordinance and allow accommodation of the total housing need (see page 38).

Examples of types of policies or requirements that should be analyzed include:

- \* Systematic (area-wide) residential downzoning
- \* Urban limit line, growth boundaries, or perimeter greenbelt
- \* Annexation restrictions
- \* Building permit or other residential development caps
- \* Voter approval for upzoning, rezoning or general plan changes
- \* Legislative super-majority for upzoning, rezoning or general plan changes
- \* Systematic changes to local height and FAR regulations
- \* Adequate public facilities ordinances

## **NONGOVERNMENTAL CONSTRAINTS**

*Government Code Section 65583(a)(5)*

**Q29:**

*If governmental constraints are factors that localities can control or influence, then by implication localities have no control over nongovernmental constraints. Why should they be analyzed?*

**A:**

Although nongovernmental constraints are primarily market-driven and generally outside direct government control, localities can significantly influence and offset the negative impact of nongovernmental constraints through responsive programs and policies. Analyzing specific housing cost components including the cost of land, construction costs, and the availability of financing assists the locality in developing and implementing housing and land-use programs that respond to existing local or regional conditions. While the price of new housing depends on some factors beyond a locality's control, local governments can create essential site preconditions (favorable zoning and development standards, fast track permit processing, etc.) that encourage and facilitate development of a variety of housing types and prices.

Community opposition to the development of affordable housing is another type of nongovernmental constraint that could be analyzed and added.

Under the Home Mortgage Disclosure Act (HMDA) lending institutions are required to publicly disclose the race, income and gender of home mortgage borrowers and the census tract in which the loans are made. Contact the National Community Reinvestment Coalition ([www.ncrc.org](http://www.ncrc.org)) for more information on fair lending.

Jurisdictions that prepare an Analysis of Impediments to Fair Housing Choice (AI), for the Consolidated Plan may be able to use information from that Plan about policies that make housing less available to the groups covered by the fair housing laws.

## Q30:

*What factors should be analyzed as nongovernmental constraints?*

## A:

- \* **Land Prices** - In looking at the price of land, estimate the average per unit cost of land, or the range of costs for developable parcels, in both single-family and multifamily zones.
- \* **Construction Costs** - The analysis of construction costs, for typical single-family and multifamily projects, should focus on the total cost to the developer, exclusive of profit, but including land, fees, material, labor, and financing.
- \* **Financing Availability** - An analysis of financing should consider whether financing is generally available in the community. This analysis could indicate whether mortgage deficient areas or underserved groups exist in the community. The financing analysis may also identify the availability of financing from private foundations (including bank foundations) corporate sponsors, community foundations, community banks, insurance companies, pension funds, and/or local housing trust funds. The analysis should consider whether the availability of financing is limited by discriminatory area lending patterns or practices.

A lack of, or limited access to, take out (new construction), rehabilitation, and/or permanent (mortgage) financing could be addressed through responsive housing finance programs such as mortgage revenue bonding, a mortgage credit certificate program, use of tax credits, first time homebuyer and down payment assistance programs, and/or targeted low-interest CDBG or HOME rehabilitation loans.

Some jurisdictions track and report housing costs and financing components periodically throughout the housing element planning period. For example, permit applicants can provide intended sales prices or rents, prices and rents of new units can be surveyed as they come into the market, and/or the rents of units developed with public assistance and subject to affordability controls can be recorded.

**see Appendix for data sources**

## **HOUSING PROGRAMS**

**Government Code Section 65583(c)**

***Q31:***

*What should an effective housing program include?*

***A:***

Responsive programs reflect the results of the local housing needs analyses, identification of available resources including land and financing, and the mitigation of identified governmental and nongovernmental constraints. Programs are the specific action steps the locality will take to implement its policies and achieve its goals and objectives. The statute requires that programs include a specific time frame for implementation and identify the agencies or officials responsible for implementation.

Effective program descriptions include the following:

- \* Immediate, short-term and long-term action steps
- \* Proposed measurable outcomes (e.g. the number of units created, completion of a fee study, development of a homeless shelter, initiation of rezoning program, preservation of at-risk units, annexation of land within the sphere of influence, etc.)
- \* Definite time frames for implementation (e.g. by June 2002, ongoing, annually during the planning period, upon adoption of a general plan amendment, etc.)
- \* Identify the agencies and officials responsible for implementation (e.g., the planning department, redevelopment agency, county community development department, city building official, housing manager, public housing authority, etc.)
- \* Demonstrate the local government's firm commitment to implement (e.g., the city and/or county will rezone x number of acres of nonresidential land to residential for development of x number of mixed use units)
- \* Identify specific funding sources, where appropriate (e.g. dollar amounts of annual funding entitlements or allocations – CDBG, HOME, ESG, HOPWA, Continuum of Care, Redevelopment Agency Low and Moderate Income Housing Funds, Bond Proceeds, Tax Credit Allocations, and other federal, State and local resources.

Examples of effective program descriptions include:

"The Department of Housing and Community Development will apply for \$500,000 in Small Cities Community Development Block Grant funds for the City's Rehabilitation Program for the 2002-2003

program year (i.e., by January, 2001) and annually thereafter. The goal is to rehabilitate up to twenty lower income owner-occupied units a year.”

“The Planning Department will revise the zoning ordinance to allow zero-lot-line and cluster developments by June 2003. This program is intended to facilitate the development of single family housing units affordable to moderate income households.

“The Planning Director will study the County’s development standards to determine which standards and policies can be relaxed to facilitate the development of lower-income housing. The review will include, but not be limited to, the County’s setback, lot coverage, design criteria, and parking requirements. The review will be completed by January 2003 with adopted recommendations implemented by June 2003.”

### *Q32:*

*What information about a redevelopment agency’s Low and Moderate Income Housing Fund (LMIHF) should be included?*

### *A:*

The housing element should estimate the amount of funds expected to accrue to the LMIHF over the planning period of the element and describe the planned uses for those funds. For each program in the housing element that lists the Redevelopment Agency as the responsible agency for implementation, the amount of redevelopment funds allocated or planned to be allocated to that program should be included.

Each redevelopment agency (Health and Safety Code Section 33334.4) is required to “expend, over the duration of the redevelopment plan, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of low and very low income in at least the same proportion as the total number of housing units needed for those income groups.”

### *Q33:*

*How do redevelopment implementation and housing production plans relate?*

### *A:*

Many communities include redevelopment reports and plans within the housing element. Incorporating a redevelopment agency affordable housing production plan in the housing element will help promote consistency between the housing element and redevelopment plan and ensure resources can be effectively targeted to priority local housing needs. A redevelopment agency’s affordable housing production plan may be developed separately from the housing element, but it is required to be consistent with the housing element.

Redevelopment agencies are required to produce five-year implementation plans (Health and Safety Code Section 33490) and affordable housing production plans for each project area



(Health and Safety Code Section 33413(b)(4)). Production plans include project sites, inside and outside of redevelopment agency project areas, where the agency intends to expend LMIHF monies to facilitate the development of affordable housing.

**Q34:**

*What other financial resources should be included?*

**A:**

The amount of all federal, State, and local financing and subsidy programs expected to be available or programs the locality may consider applying for during the planning period should be described. Such programs include the Community Development Block Grant Funds, HOME, HOPWA, Continuum of Care, tax credit allocations, mortgage revenue, mortgage credit certificates or other bond proceeds, and any other source of funding (e.g. Rural Housing Services, HCD programs, CHFA programs, housing trust funds, private foundations, etc.).

HCD's Clearinghouse for Affordable Housing Finance website [www.hcd.ca.gov/clearinghouse/](http://www.hcd.ca.gov/clearinghouse/) contains information on over 200 financing and funding resources.

## **IDENTIFICATION OF ADEQUATE SITES**

**Government Code Section 65583(c)(1)**

**Q35:**

*When must a housing element include an adequate sites program?*

**A:**

All housing elements are required to include a program identifying adequate sites. If the land inventory contains sites with sufficient capacity, variety and infrastructure to meet the total share of regional need, the program should, at minimum identify which sites are appropriate and feasible for particular income levels. The program should demonstrate that sites will be available for residential development during the timeframe of the element.

The land inventory should demonstrate adequate site capacity to accommodate the regional housing need for all income groups. If not, actions to address the shortfall must be included under the adequate sites program.

The land inventory should also identify sufficient sites to accommodate the lower income regional housing need. If not, a program that provides sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including appropriate density and development standards to accommodate and facilitate the development housing for very low and low-income households.

## Q36:

*How is “use by right” defined?*

## A:

Use by right means the use does not require a conditional use permit, except when a mixed-use (commercial/industrial/residential) project is proposed. Use by right for all rental multifamily residential housing is to be provided in accordance with subdivision (f) of Section 65589.5.

## Q37:

*What strategies can be used to increase total residential development capacity?*

## A:

The following approaches have been used by localities to increase their total residential development capacity:

- \* Upzone existing residential areas at appropriate densities to facilitate development of affordable housing.
- \* Prezone and annex land suitable for residential use.
- \* Establish Minimum Densities – Designate minimum densities of development to assure that existing available land is not underutilized.
- \* Institute Flexible Zoning – Allow various residential uses within existing zones without requiring rezoning or conditional approvals.
- \* Allow and Encourage Mixed-Use Zoning – Permit housing in certain non-residential zones either as part of a mixed-use project or as a stand alone residential use.
- \* Rezone underutilized land from nonresidential to residential to expand the supply of available residential land.
- \* Zone for, promote and encourage infill, compact, transit-oriented, walkable, bikeable and pedestrian- friendly developments to facilitate Smart Growth strategies and reduce premature development of non-residential land.
- \* Encourage development that takes advantage of existing infrastructure with surplus capacity (e.g. recycling, compact, infill, mixed use, manufactured housing, second units).
- \* Redevelop and/or recycle underutilized existing land to more intensive uses.
- \* Convert obsolete older public/institutional/commercial/ industrial buildings to residential use through adaptive reuse and/or historic preservation.
- \* Overzone – Create a surplus of land for residential development during the current planning period of at least 20 percent more than the locality’s share of the regional housing need. Overzoning compensates for urban land left vacant due to ownership and development constraints (about 10 percent), and creates a real surplus (10 percent). A sufficient supply of land beyond the time frame of the element helps prevent land shortages from bidding up land costs.





# HOUSING PROGRAMS

- \* Allow small and irregular size lot development.
- \* Phase Additional Capital Improvements - Coincide capital improvements with the demand for new construction.
- \* Access alternative capital improvement funding mechanisms - Such as Mello-Roos community facilities bonds, the Infrastructure Bank, special assessment districts, development agreements, general or special obligation bonds, and/or the use of state and federal funds (e.g. transportation funds) to expand infrastructure capacity.
- \* Increase height limitations – Allow three stories in multifamily zones at minimum.
- \* Use innovative siting techniques – Approve Subdivision Maps that can accommodate zero-lot-lines and half-plex developments.
- \* Promote clustering of new housing to help reduce new infrastructure and housing development costs.
- \* Increase Floor Area Ratios – Allow for larger buildings on smaller lots and/or more units per lot by reducing the FAR (total lot area divided by the total building area).
- \* Establish No Net Loss Policy – Rezone equal amounts of land to replace any residential land used for other than its intended residential use.

## Q38:

*How can a locality make sufficient sites available to accommodate its share of the RHNA for all income levels, particularly lower- & moderate-income households?*

## A:

While the land inventory may identify sufficient sites in the aggregate to accommodate the locality's total numerical share of the regional housing need assessment (RHNA), it may not identify sufficient sites with appropriate zoning and infrastructure to accommodate the very low-, low- or moderate-income household portion of the share of need. In these circumstances, the element must identify sites to address the need for lower- and moderate-income households.

Localities have developed various land use controls and development incentives to encourage a variety of housing types for all income levels, including:

- \* Zone sites for higher density and more intensive residential use.
- \* Encourage and facilitate second-unit development in single-family residential areas such as to reduce development standards for second units.
- \* Zone sites for mobilehomes and mobilehome park use.
- \* Establish a rental-only zone that provides for rental apartment development in areas designated for higher density residential use.

- \* Promote multifamily rental housing above ground floor commercial uses (mixed residential-nonresidential land use). Permit apartment uses in office/commercial areas where office space revenue can offset rental costs and act as an internal project subsidy.
- \* Compile and maintain an inventory of public surplus lands and land owned by other entities, such as school districts, public utilities, etc., to identify sites suitable for development of low- and moderate-income housing. Facilitate the acquisition of surplus public lands and other identified land for affordable housing development.
- \* Zone for housing types typically occupied by renter households (e.g. second units, apartment complexes, and mixed use projects).
- \* Offer development incentives (e.g. land writedowns, fee waivers, and below market rate financing) negotiated through developer agreements to increase multifamily densities in selected areas.
- \* Reduce multifamily development standards (e.g. number of required covered parking spaces, setback and building height requirements, etc.)

## Q39:

*What are “appropriate zoning and development standards”?*

## A:

Appropriate zoning and development standards facilitate the location, siting, capacity, and price of residential development to meet identified housing needs, particularly new construction for lower income households. These include establishing maximum densities, minimum floor areas, maximum lot coverage, allowing minimum building, rear and side yard setbacks, reduced parking and amenities requirements, and other controls such as streamlined architectural and design review standards.

State zoning law (Government Code Section 65913.1) requires localities to zone sufficient vacant land for residential use with appropriate standards to meet the housing needs as identified in the general plan. Appropriate standards are requirements that “contribute significantly to the economic feasibility of producing housing at the lowest possible cost.”

In regulating subdivisions, (Government Code Section 65913.2) provides that a local government may not impose design criteria for the purpose of rendering an affordable housing development infeasible. A community may not impose standards and criteria for public improvements (e.g. streets, sewers, schools, or parks)



that exceed those imposed on other developments in similar zones. Additionally, the effect of a community's ordinances and actions on accommodating the housing needs of the region must be considered.

## Q40:

*Must a locality provide adequate sites through appropriate zoning at the beginning of the planning period?*

## A:

**No.** However, a locality's ability to accommodate all units needed during the planning period is best served by designating appropriate zoning as early as possible. The most direct procedure is for the locality to undertake rezoning when the housing element is adopted. Although the program does not have to ensure the provision of sites at the beginning of the planning period, it must make provision for sites that will be available soon enough in the planning period to reasonably permit development during the planning period. The locality may also commit to subsequent zoning actions within the five-year schedule of the housing program. Subsequent zoning allows the locality to meet the site-specific rezoning provision (e.g., public notification and hearing) according to a prescribed timetable.

## Q41:

*How can a community with little vacant land identify sites to accommodate its entire regional share allocation?*

## A:

Communities with limited vacant land should focus their land inventory analysis on underutilized land, identify sites with the potential for recycling or rezoning and, opportunities for mixed uses (residential and commercial, for example). Identification of these sites opportunities should be accompanied by programs that encourage their development and/or reuse including programs to initiate any necessary rezoning, establish appropriate regulatory and/or financial incentives, relax development standards (design criteria, parking, building height, setback requirements, etc.), support more compact and higher density residential developments, and facilitate the new construction of multifamily rental and owner-occupied units. Examples of successful site programs for communities with limited vacant land include second units, infill, transit oriented developments, and mixed-use developments. Such developments are often located in urban cores areas, Redevelopment Project Areas, adjacent to existing neighborhoods, close to transit centers and established businesses and services. Maximizing the use of underutilized land through recycling leverages the use of existing infrastructure and can reduce overall development costs.

## Q42:

*When may sites located on a military base undergoing closure or conversion serve as an adequate site?*

## A:

The following two conditions must be met in order to qualify sites on a converting or closing military base as adequate sites:

- \* Housing units at the site will be available for occupancy by eligible households within the planning period of the element.
- \* Sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses do not qualify as an adequate site.

## Q43:

*Must a local government accommodate all of its regional share allocation by identifying adequate sites?*

## A:

**No.** Pursuant to Government Code Section 65583.1(c)(1), local governments may meet up to 25 percent of their adequate sites requirement by substituting existing units which are not now available and affordable to households with very-low and low-incomes, are condemned or uninhabitable, or will be lost from the affordable housing stock because of expiring affordability restrictions during the planning period. All such units must have long-term affordability restrictions and covenants. To use this provision of the law, the housing element must include a program to:

- \* Identify the specific source and amount of funds to be used to provide committed assistance.
- \* Dedicate the funds needed for this purpose.
- \* Describe the number of units to be provided for low- and very low-income households.
- \* Demonstrate that the amount of funds dedicated is sufficient to provide the units at affordable costs.

Only units to be substantially rehabilitated, converted from nonaffordable to affordable by acquisition of the units or the purchase of affordability covenants, or preserved at affordable housing costs by the acquisition of the units or purchase of affordability covenants are eligible.

- A. Substantially Rehabilitated:** Units to be substantially rehabilitated must result in a net increase in the stock of housing affordable to low- and very low-income households and be at imminent risk of loss to the housing stock. Relocation assistance is to be provided to any occupants temporarily or permanently displaced and the local government must require that any displaced occupant will have the right to reoccupy the rehabilitated units.

The units are to have been found by the code enforcement agency or a court to be unfit for human habitation and vacant or subject to being vacated for at least 120 days because of the existence of at least four of the conditions in Health and Safety Code Section 17995.3)

- B. Converted: Multifamily units in a rental complex of 16 or more units converted from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions.** These units are not to be acquired by eminent domain and must provide a net increase in the stock of housing affordable to low- and very low-income households.

Converted units must be made available at affordable housing costs, not occupied by low or very low-income households, and in decent, safe and sanitary condition when occupied. The acquisition price is not to be greater than 120 percent of the median price for housing units in the city or county. Long-term affordability covenants (not less than 30 years) apply to these units.

- C. Preserved:** Units are to be preserved at affordable housing costs to lower income households by acquisition of the unit or the purchase of affordability covenants for the units. Preserved units must have long-term affordability covenants and restrictions (at least 40 years), have received governmental assistance under specified programs, be expected to convert to non low-income uses, and be in decent, safe and sanitary condition. When units are identified for preservation, they must be available at affordable costs to persons and families of low- or very low-income.

**Other Requirements to Meet the Alternative Site Requirement:**

- \* Units may be substituted one for one, except for substantially rehabilitated units with affordability covenants and restrictions of less than 20 years which may be substituted at the rate of three units for one. No credit is provided for units with less than 10-year affordability restrictions.
- \* Jurisdictions are required to document the status of their committed assistance program during the housing element planning period in the annual report to the governing body. The report should identify the units for which committed assistance has been provided and indicate how each unit complies with the statutory requirements. If the jurisdiction has not entered into an enforceable agreement of committed assistance for all the units initially identified, the local government must adopt an amendment to its housing element identifying additional adequate sites sufficient to accommodate the number of units for which committed assistance was not provided. Jurisdictions which do not amend their element to include adequate sites, or which do

not complete rehabilitation, acquisition, purchase of affordability covenants, or the preservation of identified units within two years after the committed assistance was provided are prohibited from identifying substitute units in the next regular housing element update, above the number of units actually provided or preserved with committed assistance.

- \* Only those local governments (during the current or immediately prior planning period) that have met some of their share of the regional need for housing affordable to households with low and very-low incomes may use the alternative sites provision of housing element law. Documentation of having met this need includes issuance of a building permit, payment of all development and permit fees, and/or that the unit is eligible to be lawfully occupied.
- \* “Committed assistance” means a local government has entered into a legally enforceable agreement during the first two years of the housing element planning period that obligates sufficient available funds to provide the assistance necessary to make identified units affordable and that the units will be made available for occupancy within two years of the execution of the agreement. “Net increase” means only those units that were not provided committed assistance in the immediately prior planning period.

A committed assistance checklist is available on HCD’s website.

## Q44:

*What is required to identify adequate sites for emergency shelters and transitional housing?*

## A:

Every locality with an identified unmet homeless and/or transitional housing need must identify adequate sites, including existing facilities that can be converted to accommodate that need. The identified sites should be available for use as emergency shelter and transitional housing. Appropriate sites have the following characteristics:

**Location:** The site should be located within the boundaries of the jurisdiction, close to public services and facilities, including transportation, and easily accessible from areas where homeless persons congregate.

**Zoning:** Any zoning classification that allows the siting of a shelter or transitional housing project, and does not impede the development of the sites, or the conversion or use of an existing structure is appropriate. Any zoning application for emergency shelter or transitional housing should regulate the use, not the users.



Most communities include shelters and transitional housing as a permitted or conditional use in one or more zones. The General Plan designation and site zoning should accommodate the development of (or conversion of existing facilities to) emergency shelters or transitional housing without undue special regulatory approval.

**Development standards:** Parking requirements, fire regulations, and design standards should not impede the efficient use of the site as an emergency shelter or as transitional housing.

**Q45:**

*What is required to identify adequate sites for farmworker housing?*

**A:**

Sites identified for farmworker housing should facilitate the provision of housing for agricultural workers while minimizing the development of prime agricultural land to urban uses. These sites should also have characteristics relating to location, zoning and development standards which would be appropriate for their use for housing for farmworkers. Where a need for farmworker housing has been identified, the program should identify zones where housing for permanent, and where appropriate, for migrant farmworkers is allowed. Where adequate farmworker sites have not been identified, jurisdictions must allow farmworker housing “by right”.

Cities and counties are encouraged to work cooperatively to identify their respective share of sites needed for farmworker housing and to locate those sites, to the extent feasible, within or adjacent to existing urbanized areas.

## **DEVELOPMENT OF HOUSING FOR LOW- AND MODERATE-INCOME HOUSEHOLDS**

*Government Code Section 65583(c)(2)*

**Q46:**

*What is local government's role in assisting in the development of adequate housing for low- and moderate-income households?*

**A:**

Having assessed and identified the housing needs of low- and moderate-income households, localities can employ a significant number of diverse strategies to assist in developing adequate housing to meeting those needs. A combination of public and private resources is necessary to build affordable housing.

Localities can offer direct support for the development of affordable housing through various financing mechanisms including the issuance of municipal and mortgage revenue bonds and use of redevelopment powers. Direct assistance can also be provided through the utilization of appropriate federal and state financing and subsidy programs to create rental and ownership

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opportunities. Localities can create first time homebuyer, equity sharing, or self-help housing programs to provide affordable homeownership opportunities. Local governments can also assist developers in making applications for other public or private housing funds or low-income housing tax credits.

Working with local nonprofit housing developers, advocacy groups and tenants may make assisting in the development of affordable housing easier and more effective. Many jurisdictions support existing nonprofit housing developers or help establish new joint ventures and local housing sponsors. Local governments can establish a local housing authority or work with an established nonprofit development corporation or Community Based Housing Development Organization (CHDO) to develop, operate, and manage low- and moderate-income housing projects. Contacts for housing advocacy and technical assistance organizations are available through HCD with links on our website.

Local governments can indirectly facilitate the development of more affordable housing through effective administration of land use controls and by providing appropriate regulatory concessions and incentives.

The following are examples of programs that have been successfully implemented by localities to comply with State law and address their housing needs:

- \* Adopt a density bonus ordinance in compliance with Government Code Section 65915 and develop an outreach program to ensure its successful implementation.
- \* Expand on the minimum requirements of state density bonus law by offering additional density bonuses (more than 25 percent) and/or bonuses for housing meeting the special needs of the community (e.g., housing for large families).
- \* Use landbanking to make surplus lands available as sites for affordable housing.
- \* Provide fast track or one-stop permit processing for low-income housing projects.
- \* Reduce, waive or subsidize development and impact fees for affordable housing projects.
- \* Reduce or waive certain development standards to promote affordable housing development. For example, reduce parking standards or covered parking requirements for senior or certain projects designed for lower income households.
- \* Allow the purchase of air rights to increase building heights and/or intensify residential uses.



## **REMOVE OR MITIGATE GOVERNMENTAL CONSTRAINTS**

**Government Code Section 65583(c)(3)**

**Q47:**

*When must a housing element include programs to address or remove governmental constraints?*

**A:**

For each policy, requirement, or procedure identified as a governmental constraint, the element must include an appropriate program action to eliminate or modify the constraint or demonstrate how it will be offset by another policy or program.

**Q48:**

*What are examples of programs localities have used to reduce or eliminate barriers to the maintenance, improvement, and development of housing?*

**A:**

The following are strategies communities have found appropriate to remove regulatory barriers:

### Land Use Controls

- \* Modify and/or reduce growth controls to ensure accommodation of projected housing needs
- \* Exempt affordable housing projects from growth control ordinances
- \* Allow zero-lot line and cluster developments
- \* Relax development standards, for example:
  - Front yard set backs of 20 feet or less
  - Minimum lot sizes of 6,000 square feet or less
  - Lot width of 60 feet or less
- \* Reduce parking requirements
- \* Provide flexible standards for second units to encourage their development

### Codes and Enforcement Procedures

- \* Allow use of alternative building design and construction materials and methods.
- \* Issue building permits before subdivision approval so the developer can begin construction upon permit approval.
- \* Coordinate inspection/enforcement activities for existing housing with information, technical assistance, and the availability of rehabilitation program grants/loans.
- \* Allow rehabilitation using materials and methods as of date of original construction, unless a health or safety hazard would result (Health and Safety Code Section 17922 (c)).
- \* Use State Housing Law (SHL) codes without additional local requirements. State law prohibits modification of SHL standards, except where local variations are necessary for reasons of climate, geology, or topography (Health and Safety Code Section 17958.5).

## On/Off Site Improvement Requirements

- \* Reduce street widths (e.g., 36 feet or less) and right of ways (e.g., 56 feet or less)
- \* Reduce the number and size of sidewalks (e.g., on one side of street only)
- \* Use roll curbs instead of formed curbs and gutters
- \* Increase spacing between manholes
- \* Allow multiple service laterals
- \* Allow common trenching for utilities
- \* Allow fire hydrant intervals of 500 feet or more
- \* Where appropriate, reduce the size of water and sewer mains
- \* Design residential streets to accommodate average traffic estimates
- \* Use utility or sidewalk easements instead of right-of-ways
- \* Place water supply systems and sanitary sewers in easements instead of right-of-ways

## Fees and Exactions

- \* Reduce or waive fees, exactions, and/or development standards for particular types of development (e.g., rental or assisted housing, second units, mixed-use and infill projects, housing affordable to low- and moderate-income households)
- \* Allow payment of fees upon certificate or occupancy, rather than prior to building permit issuance to reduce developer construction financing costs and overall development costs

## Processing and Permit Procedures

- \* Expedite permit processing (allow one-stop, consolidated, and concurrent permit processing)
- \* Hold pre-application development conferences
- \* Prepare and present explanatory materials on the application and review processes to streamline permit processing
- \* Utilize development agreements as authorized by Government Code Section 65864
- \* Eliminate conditional use permit requirements for multifamily projects when land is zoned multifamily

## **CONSERVE AND IMPROVE EXISTING AFFORDABLE HOUSING STOCK**

*Government Code Section 65583(c)(4)*

**Q49:**

*What strategies conserve (maintain affordability) and improve (structurally rehabilitate) the condition of the affordable housing stock?*

**A:**

The existing affordable housing stock is a valuable resource that should be conserved and, as necessary, improved. Strategies used to conserve and improve the condition of the affordable housing stock include:

### Conservation

- \* Require one-to-one replacement of any housing units demolished due to public or private action.
- \* Enact ordinances governing demolition of housing units and conversions of housing units to other uses (e.g., office or commercial). For example, Section 17980(b)(2) of the Health and Safety Code requires enforcement agencies to consider needs expressed in the housing element when deciding whether to require vacation or repair of property.
- \* Provide stable zoning to preserve affordable housing. For example, change the underlying zoning for a mobilehome park from commercial to mobilehome park.
- \* Enact occupancy ordinances requiring presale code inspections and compliance before title to a property is transferred to new owners.
- \* Maintain long-term affordability restrictions on assisted rental units (see Q50).

### Improvement

- \* Conduct annual housing condition surveys to determine the extent of rehabilitation need and to prioritize rehabilitation program actions.
- \* Enforce building and housing codes through an ongoing compliance program, financed in part with proceeds from denial of state tax benefits to owners of substandard rental housing.
- \* Establish a self-help paint-up/fix-up neighborhood improvement program.
- \* Designate lower income neighborhoods for concentrated housing rehabilitation assistance through subsidized grants and/or deferred low interest loans.
- \* Designate lower income neighborhoods for public facility/infrastructure improvements through general fund capital improvement plans, special assessments districts, Mello-Roos community facilities districts, etc.
- \* Access State and federal grant/loan owner and rental rehabilitation programs including HCD Rental Housing Programs, Community Development Block Grant, HOME, etc.



- \* Rehabilitate residential hotels and motels (SROs) for very low- and low-income households including the homeless and those at-risk of homelessness.

## **PRESERVE AT-RISK ASSISTED PROJECTS**

Government Code Section 65583(c)(6)(a)

**Q50:**

*What steps can be taken to preserve units at-risk of conversion?*

**A:**

The nature of conversion risk varies significantly among projects depending on the type of subsidy and related affordability controls. Individual program responses should be tailored to the results of the analyses and specific local situations. The following strategies are not exhaustive.

- \* Establish an Early Warning System and Monitor At-Risk Units based on at-risk units in the ten year inventory and analyses (conversion risk, costs, and resources) for possible conversions within the current and next planning period.
- \* Gauge owners intent to prepay a federally assisted mortgage.
- \* Gauge owners interest in renewal and/or opting-out of project-based Section 8 Determine whether profit-motivated owners intend to renew Section 8 contracts. Five to twenty year HUD contracts are available subject to annual appropriations.
- \* Identify qualified entities interested in participating in the Offer of Opportunity to Purchase and Right of First Refusal program (Government Code Section 65863.11).
- \* Respond to any Federal and/or State Notices including Notice of Intent to Pre-Pay (Government Code Section 65863.10), owner Plans of Action, or Opt-Out Notices filed on local projects. Local governments (affected public agencies) receive these Notices and should respond by contacting property owners.
- \* Facilitate refinancing or purchase by a qualified entity through the opportunity to submit a bonafide Offer to Purchase and Right of First Refusal process.
- \* Allocate potential sources of funds for mortgage refinancing, acquisition and rehabilitation including gap funding for nonprofit housing developers as intermediaries and for rental subsidy assistance (California Housing Finance Agency, State HCD, predevelopment funds, tax-exempt bonds, tax credits, Redevelopment Low and Moderate Income Fund, CDBG, HOME, etc.).

- \* Provide tenant relocation assistance and/or direct rental subsidies. In the event of owner mortgage prepayment or project based Section 8 opt-out, the Section 8 enhanced voucher may not be sufficient to assure affordability or the new owner may refuse to accept Section 8 vouchers. In such cases, local relocation assistance and additional rental subsidies may be necessary. Work with the local Public Housing Authority to determine the availability of tenant-based Section 8 vouchers for tenants who choose to move from at risk units or who are displaced by conversion. Some jurisdictions have used redevelopment housing funds for replacement of Section 8 rental subsidies.
- \* Provide ongoing preservation technical assistance and education to affected tenants and the community at-large, on the need to preserve the existing affordable housing stock.

**Q51:**

*What other kinds of local program actions help prevent the loss of at-risk government assisted projects?*

**A:**

- \* Prohibit condominium conversions or establish a purchase program to assist interested income eligible tenants in purchasing their units.
- \* Require owners to replace low-income units converted to market rate on a one-to-one basis.
- \* Provide local direct rental subsidies to affected tenants who wish to remain in converted units or where Section 8 vouchers and certificates are not available.
- \* Link local housing sponsors with converting projects requiring new ownership, financing and/or subsidies, and management.
- \* Provide prospective new owners with predevelopment, acquisition, rehabilitation, and/or gap grants and loans in exchange for long-term use and rent restrictions.
- \* Provide rehabilitation grants/loans with extended use restrictions for older units (e.g. locally funded with mortgage revenue bond proceeds, CDBG, or HOME).
- \* Act as an "intermediary" to temporarily preserve converted units until local housing sponsors can secure financing to repurchase and rehabilitate.
- \* Offer local incentives (lower interest rate loans and more favorable loan terms and conditions) to owners wishing to refinance and prepay their existing mortgage in exchange for continued affordability restrictions.
- \* Reduce, waive or subsidize local development fees associated with preservation or replacement of at risk units.
- \* Incorporate preservation incentives/conversion disincentives into an adopted Preservation Ordinance.

## **EQUAL HOUSING OPPORTUNITIES**

*Government Code Section 65583(c)(5)*

### ***Q52:***

*What can local governments do to promote equal housing opportunity?*

### ***A:***

Since State and federal laws uniformly outlaw most kinds of housing discrimination, local government's role is to identify program strategies that support and implement these laws. Such strategies may include consultation with fair housing and counseling organizations in the community to document the incidence of housing discrimination and the availability of services to address the problem. If fair housing services are not available or are inadequate, the locality can request technical assistance from HUD (<http://www.hud.gov/fheo>); the Housing Unit of the State Department of Fair Employment and Housing (<http://www.dfeh.ca.gov>), and/or local, regional, private Fair Housing organizations to help develop specific local government actions to promote fair housing opportunity. Fair Housing laws make it illegal to discriminate against any person because of race, color, religion, sex, disability, familial status, national origin, ancestry, marital status, sexual orientation, source of income and age in the rental or sale, financing, advertising, appraisal, provision of real estate brokerage services, etc., and land use practices.

In the housing element, a local equal housing opportunity program should provide a means for the resolution of local housing discrimination complaints and should be promoted throughout the community. The local program may involve the dissemination of information on fair housing laws, and provide for referrals to appropriate investigative or enforcement agencies. Where appropriate, communities should distribute fair housing information in languages other than English. Sites for display of fair housing information include buses, in public libraries, community and senior centers, local social service offices, and other public locations including Civic Centers or County administrative offices.

In larger and/or urban jurisdictions, more direct program actions would be appropriate such as a commitment to use CDBG funds to support fair housing information and referral and counseling services. The locality may wish to contract with or create a fair housing council to investigate and resolve discrimination complaints, and advocate specific equal housing opportunity actions before community and business organizations.

A Consolidated Plan requires annual certifications that the jurisdiction will affirmatively further fair housing, conduct an analysis to identify impediments to fair housing choice, and take actions to overcome the effects of any impediments identified.



Many jurisdictions cross-reference and/or incorporate fair housing information and data from the consolidated plan into their housing element (see Appendix for additional resources).

The following are examples of successful policies, plans, and practices to identify barriers and promote fair housing:

- \* Use CDBG funds to fund fair housing enforcement, education, and technical assistance activities
- \* Ensure that all new, multifamily construction meets the accessibility requirements of the federal and State fair housing acts through local permitting and approval processes
- \* Use banks that conduct an effective Community Reinvestment program
- \* Revise zoning and land use policies that have an unintended negative impact on the ability of families with children, low-income families, and renters with disabilities from having a choice of housing options

All units of government are required to comply with the Americans with Disabilities Act, which prohibits discrimination against people with disabilities in employment, public and commercial facilities, delivery of services, zoning and land use.

## Q53:

*Does State law address equal housing opportunities in relationship to housing development and zoning?*

## A:

**Yes.** Government Code Section 12955 et.seq. (The Fair Employment and Housing Act) prohibits all housing providers, including local governments, from discriminating in housing development and all actions related to the provision of housing based on race, color, national origin, ancestry, sex, sexual orientation, religion, mental and physical disability, marital status, familial status, source of income and age.

Additionally, Government Code Section 12955 subdivision (I), specifically prohibits discrimination through public or private land use practices, decisions and authorizations. Discrimination in this regard includes, but is not limited, to restrictive covenants, zoning laws, denials of use permits and other actions authorized under the Planning and Zoning Law (Title 7, commencing with Section 65000), that make housing opportunities unavailable. Government Code Section 12955.8 prohibits land use policies and practices that have a disproportionate impact on persons protected by the fair housing laws unless they are necessary to achieve an important purpose sufficiently compelling to override the discriminatory effect and there is not less restrictive means to achieve the purpose.

To be in violation of fair housing law, discrimination may be intentional or unintentional. Intentional discrimination is established by showing that one or more of the protected bases is a motivating factoring committing a discriminatory housing



practice even though other factors may have also motivated the practice. Unintentional discrimination typically entails a facially neutral practice (e.g., a numerical occupancy standard), which has a discriminatory effect or impact on a protected group.

Government Code Section 65008 prohibits localities from denying the enjoyment of residence, land ownership, tenancy, or any other land use because of religious beliefs or ethnic origins. It also prohibits localities from preventing or discriminating against any residential development or emergency shelter because of the method of financing or the race, sex, color, religion, national origin, ancestry, lawful occupation, or age of the owners or intended occupants.

Local governments are required under State and federal law to “reasonably accommodate” housing for persons with disabilities when exercising its planning and zoning powers. Jurisdictions must grant variances and zoning changes if necessary to make proposed housing for persons with disabilities feasible, but are not required to fundamentally alter their zoning scheme.

In addition, localities are prohibited from enacting or administering ordinances, which discriminate against a residential development or emergency shelter because the development or shelter is intended for use by low- and moderate-income households.

Finally, local governments may not impose different requirements on a government assisted residential development or emergency shelter than those imposed on non-assisted developments (see Appendix for planning, zoning, fair housing, and other related laws).

## **ENERGY CONSERVATION OPPORTUNITIES**

*Government Code Section 65583(a)(7)*

**Q54:**

*What constitutes an adequate analysis of energy conservation opportunities?*

**A:**

The purpose of this analysis is to ensure the locality has considered how energy conservation can be achieved in residential development and how energy conservation requirements may contribute to reducing overall development costs and therefore, the supply and affordability of units.

The following are examples of policies, plans, and development standards that have been successful in reducing local energy costs or consumption:

- \* Promote higher density and “Smart Growth” developments.

# HOUSING PROGRAMS



## *State Department of Housing and Community Development*

- \* Adopt an Energy Conservation Ordinance to establish programs that encourage conservation of nonrenewable energy resources.
- \* Enforce State Energy Efficiency Standards for Residential and nonresidential Buildings (Government Code Title 24, Part 6).
- \* Provide incentives to encourage green (energy-efficient and environmentally-sensitive) building techniques and materials in new and resale homes and apartments.
- \* Support the elimination of contamination in older buildings (lead based paint, asbestos, etc.) during rehabilitation and code inspections.
- \* Promote energy audits and resident participation in utility rebate programs through private and public utility companies.
- \* Encourage low-income homeowners or renters to apply for free energy audits and home weatherization through the federal DOE's Weatherization Assistance Program in partnership with State and local programs (usually conducted by community action agencies or other nonprofit organizations). Weatherization and insulation services reduce the heating and cooling costs for low-income families.
- \* Use emerging technologies to reduce high demands for electricity and natural gas including use of passive solar devices and where feasible other renewable energy technologies (e.g., biomass, wind and geothermal).
- \* Develop energy conserving standards for street widths and landscaping of streets and parking lots to reduce heat loss and/or provide shade.
- \* Require energy efficient retrofits prior to resale of homes.
- \* Promote efficient building design to orient buildings to the sun rather than the street or site.
- \* Encourage the use of location-efficient mortgage funds available from Fannie Mae.
- \* Promote the construction of tighter building envelopes with maximum height and sky exposure planes and minimum setbacks.
- \* Promote the use of passive solar devices as an alternative to the use of electricity or natural gas and where feasible other renewable energy technologies (e.g. biomass, wind and geothermal).

# HOUSING PROGRAMS



## State Department of Housing and Community Development

The California Department of Community Services and Development ([www.csd.ca.gov](http://www.csd.ca.gov)) in partnership with the network of local community services agencies that assist low-income households, administers the Low Income Home Energy Assistance Program (LIHEAP) that provides financial assistance to low-income persons to offset the costs of heating and/or cooling dwellings and the Energy Low-Income Weatherization Assistance Program (DOE-LIWAP) that provides installation and weatherization measures that increase the energy efficiency of dwellings occupied by low-income persons.

Additional information is available from the federal Environmental Protection Agency (EPA), Department of Energy (DOE), and HUD's Partnership for Advancing Technology in Housing (PATH); California Environmental Protection Agency (Cal-EPA) and the California Energy Commission.

The EPA website is <http://www.epa.gov/region9/>.

The Department of Energy's (DOE) website is <http://www.doe.gov>.

The PATH website is <http://www.pathnet.org/>

PATH promotes the creation and use of technology to improve the quality, durability, environmental performance, energy efficiency, and affordability of American homes. Led by HUD, this public/private initiative combines resources from both the Government and the housing industry to speed innovation throughout the homebuilding industry.

Cal-EPA's website is <http://calepa.ca.gov> and the State Energy Commission's websites include:

<http://www.energy.ca.gov>

[energia@energy.ca.gov](mailto:energia@energy.ca.gov), and

<http://www.energy.ca.gov/consumer/home/index.html>.

## QUANTIFIED OBJECTIVES

Government Code Section 65583(b)

### ***Q55:***

*What is meant by maximum objectives for units to be constructed, rehabilitated, and conserved by income group?*

### ***A:***

The construction objective refers to the number of new units that potentially may be constructed over the planning period of the element given the locality's land resources, constraints which cannot be mitigated or removed, and proposed programs.

The rehabilitation objective is the number of existing units expected to be rehabilitated during the planning period of the element.

The conservation objective refers to the preservation of the existing affordable housing stock throughout the planning period. To determine the number of units to be conserved, a locality could, for example, quantify the number of existing housing units that will be preserved through the provision of more stable zoning for mobilehome parks or other affordable housing types. A housing element could also provide objectives for local participation in the Section 8 tenant-based certificate/voucher program, which preserves the affordability of rental units.

A subset of the conservation objective is the number of federally, state, and locally assisted "at-risk" units to be preserved.

Each quantified objective should be described by income level as illustrated in the following table:

Income Category	New Construction	Rehabilitation	Conservation
Very Low-Income			
Low-Income			
Moderate-Income			
Above Moderate			

### ***Q56:***

*How should a locality establish its maximum objectives?*

### ***A:***

The setting of maximum objectives follows a locality's work in identifying its housing needs, surveying its land and financial resources, analyzing constraints, and developing appropriate programmatic and policy responses which reflect a community's unique needs and circumstances. This information is used to establish reasonable estimates of the maximum number of units, by income level, these programs and policies can accomplish.

Ideally, objectives will be equal to identified needs. However, when a locality has determined total housing needs exceed available resources, the quantified objectives may be less than the total identified need. Under these circumstances, the element should describe the analysis used to establish the maximum objectives.

Some localities also establish quantified objectives by tenure and/or by type of household to be benefited.

**Q57:**

*Given limited resources, how can a locality establish maximum objectives?*

**A:**

For some communities, total housing needs may exceed the locality's ability to meet those needs with existing resources. In such cases, communities target limited resources to areas of the greatest local need.

Emphasizing a particular objective however may result in reducing another. For example, in urban areas with a shortage of land, programs to maximize housing preservation may be the priority, even though this may limit opportunities for the development of new housing.

In growing communities, the development of housing affordable for future residents may be a greater need than housing rehabilitation. Such a community may use Community Development Block Grant or HOME funds for land writedowns to facilitate new construction rather than for rehabilitation loans.

## **MAINTAIN CONSISTENCY WITH GENERAL PLAN**

*Government Code Section 65583(c)*

# **OTHER REQUIREMENTS**

**Q58:**

*How should consistency among elements of the general plan be achieved?*

**A:**

The housing element affects a locality's policies for growth and residential land uses. Among other things, the housing element establishes the locality's housing goals, policies and objectives, identifies sites for new construction, and addresses governmental constraints. The goals, policies, and objectives of an updated housing element may conflict with those of the land-use, circulation, open space elements, zoning, and/or redevelopment, capital improvement plans, especially if these plans or elements have not been updated recently.

The general plan is required to be "internally consistent". Conflicts between general plan elements should be acknowledged and resolved. A general plan must be amended to eliminate conflicts between elements. When conflicts exist, the housing element must describe how consistency will be achieved and how the goals of the housing element will be addressed. California law also requires consistency between a general plan and implementation measures such as the zoning ordinance except for charter cities.

Many communities attempt to address and resolve conflicts by amending the zoning ordinance and all relevant elements of the general plan concurrent with amendment of the housing element. For example, if densities of particular sites must be increased to identify adequate sites, the attendant amendments to the general plan and the zoning ordinance could be proposed and adopted at the same public hearing as the housing element.

At the time of any amendment to the housing element or other general plan elements, the jurisdiction should review the entire general plan, especially land-use provisions, to ensure internal consistency is maintained.

A broader discussion of general plan consistency requirements is found in the *Governor's Office of Planning and Research General Plan Guidelines*.

## **ANNUAL REPORT TO THE LEGISLATURE**

*Government Code Section 65400(b)(1)*

**Q59:**

*How does the annual reporting requirement relate to the housing element?*

**A:**

The annual report to the legislative body provides information on the status of general plan and implementation efforts, including progress in meeting the share of the regional housing need and efforts to remove governmental constraints to the maintenance, improvement, and development of housing. Annual reports of local governments to their legislative bodies document progress in meeting identified housing goals and objectives, facilitate housing element revisions and updates, assist in local reviews of the previous housing elements, and can serve as a tool to encourage effective public participation. Annual reports are to be submitted to the Governor's Office of Planning and Research and HCD by July 1.

Annual reports can also serve as an effective tool in monitoring progress in implementing programs and policies. Should the annual reports document significant delays or constraints to program implementation, the local government could modify program actions to improve implementation.

## **REQUIREMENTS FOR COASTAL ZONE JURISDICTIONS**

*Government Code Section 65588(d)(1-4)*

**Q60:**

*What do the requirements for coastal zones include?*

**A:**

- \* The number of new housing units approved for construction within the coastal zone (after January 1982).
- \* The number of housing units for persons and families of low- and moderate-income (*Health and Safety Code Section 50093*) required to be provided in new housing developments either within the coastal zone or within three miles of it.
- \* The number of existing residential dwelling units occupied by low- and moderate-income households required either within the coastal zone or within three miles of the coastal zone that have been authorized to be demolished or converted (after January 1982).

The number of residential dwelling units for low- and moderate-income persons and families that have been required for replacement (of those units being demolished or converted) in the



coastal zone or within three miles of the coastal zone. Designate the location of replacement units in the housing element review for coastal zones.

This data on new construction, demolished/converted, and replacement housing units for low and moderate income households helps the locality determine whether the affordable housing stock in the coastal zone is being protected and provided as required by Section 65590.

It is also appropriate for the housing element to include incentives and regulatory concessions in order to increase the feasibility of providing low- and moderate-income housing within the coastal zones.

## **NOTIFICATION TO RETAIL WATER AND SEWER PROVIDERS**

Government Code Section 65589.7

**Q61:**

*What is a local government's obligation regarding notification to water and sewer providers?*

**A:**

Upon completion of an amended or adopted housing element, a local government is responsible for distributing a copy of the element to area water and sewer providers. The purpose of this section of the law is to ensure that public and/or private water and wastewater providers provide a priority to proposed housing development projects for lower income households in their current and future resource or service allocations.

Local public and/or private water and sewer providers must grant a priority for service hook-ups to developments that help meet the community's share of the regional need for lower income housing. This law is useful in areas with limited available sewer or water hook-ups.

Water and sewer districts may need to put written policies for allocating preferences in place in order to comply with the law. To facilitate and expedite the notification process, localities should communicate the affordable housing needs identified in their housing elements directly to applicable districts. For example, when distributing the housing element to special districts, local governments should include a cover letter citing Government Code Section 65589.7 describe the regional housing needs, and identify the sites in the land inventory that are appropriate for the development of housing for lower income households and therefore require priority.

"Water services at retail" means supplying water directly to the end user or consumer of that water, and does not include sale by a water supplier to another water supplier for resale.